

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Michael P. Nyman,**  
Petitioner-Appellant,

v.

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1173**  
**Parcel No. 181/00553-070-950**

On May 28, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Michael P. Nyman was self-represented and submitted evidence in support of his petition. The Polk County Board of Review designated Assistant County Attorneys David Hibbard and Ralph Marasco, Jr. as its legal representatives and submitted evidence in support of its decision. The Appeal Board now having reviewed the record and being fully advised, finds:

*Findings of Fact*

Michael P. Nyman, owner of property located at 1505 NW Wagner Boulevard, Ankeny, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2009, assessment and valued at \$205,400; representing \$34,000 in land value and \$171,400 in the improvement value. Nyman protested to the Board of Review but did not state a clear ground for the protest. It appears from his plain language that he alleged the property is assessed for more than authorized by law. This claim corresponds with Iowa Code section 441.37(1)(b). In response to the protest, the Board of Review notified Nyman that the January 1, 2009,

assessment would not be changed stating, "this property was not changed because market data indicates that the property is assessed at fair market value."

Nyman then filed an appeal with this Board. Nyman's appeal form was again unclear. Nyman checked the equity box on the form, but his plain statement requests a 10% reduction in assessed value, which was given to another Ankeny property owner. This Board will consider whether the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b) as it was the only ground that appears to have been raised before the Board of Review. Nyman seeks \$9,800 in relief and values the property at \$195,600.

The subject property is a two-story frame dwelling, built in 1995, with 1017 square feet of main living area and 1030 square feet of upper living area. The property has a 690 square-foot attached garage and has a grade factor of 3+5 and is in normal condition. The site consists of 0.225 acres.

Nyman states on his protest form that his property should be lowered 10% based on one property in Ankeny that was lowered 10%. Nyman chose the 10% adjustment because an article in *The Des Moines Register* reported a certain owner in Ankeny had his property reduced by 10%.

In support of its position, the Board of Review submitted five comparable properties that had sold. The properties were similar in style, size and age. The net adjusted sales price ranges from \$195,441 to \$207,402. We note the current assessed value of the subject property, at \$205,400, is within the adjusted sales price range. The market comparables supports the assessment.

Nyman offered very little, if any, relevant evidence to support his opinion that the market value of his property is less than the current assessment. The best evidence is the Board of Review comparable sales. Therefore, we find there is insufficient evidence to support the claim that the subject property is over-assessed.

### *Conclusions of Law*

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Nyman did not provide this Board with persuasive evidence that the current assessed value of the property is for more than authorized by law. Rather, the comparable sales submitted by the Board of Review, which are the most reliable evidence in the record, support the assessment. We,

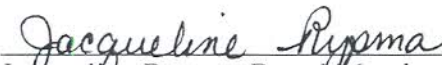


therefore, affirm the assessment of the subject property as determined by the Polk County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the Nyman property, located at 1505 NW Wagner Boulevard, Ankeny, Iowa, as of January 1, 2009, as set by the Polk County Board of Review, is affirmed.

Dated this 28 day of July, 2010.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-28-2010</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	